

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.

HILLSBOROUGH COUNTY SUPERIOR COURT - NORTH  
STATE OF NEW HAMPSHIRE

V.

ADAM MONTGOMERY

216-2022-CR-577

**DEFENDANT'S MOTION TO ADMIT IMPEACHMENT EVIDENCE PURSUANT TO  
NEW HAMPSHIRE RULE OF EVIDENCE 401, 402, 403 and 404B  
re: Kayla Montgomery**

NOW COMES the accused, Mr. Adam Montgomery, by and through counsel, Caroline L. Smith and Paige Pihl Buckley, Public Defenders, and respectfully requests this Honorable Court admit impeachment evidence of Kayla Montgomery's charges pending at the time she cooperated with police and testifies at trial, pursuant to New Hampshire Rule of Evidence 401, 402, 403 and 404(b). In support of this Motion, it is stated:

1. Mr. Adam Montgomery is scheduled for a November 9, 2022, jury selection on multiple charges of Armed Career Criminal, Felon in Possession, Theft, and Receiving Stolen Property.
2. Kayla Montgomery is a potential witness in this matter.
3. Based upon a preliminary criminal record search the defense believes that Ms. Kayla Montgomery had charges pending when she spoke to the police, as well as charges immediately following her discussion with police, which the defense would seek to admit for impeachment purposes should Ms. Montgomery testify at the upcoming trial:
  - a. 6/6/2022: Two Counts of Perjury: 216-2022-CR-01037
  - b. 4/13/2022: Two counts of Receiving Stolen Property: 2016-2022-CR-0652
  - c. 1/10/2022: Theft by Deception: 216-2022-CR-00039

4. Ms. Montgomery has not been convicted of the above-referenced charges. The Theft and Receiving charges were pending when she gave her most recent statement to police, and the Perjury charges will be pending if she testifies at trial.
5. Mr. Montgomery asserts that the charges pending at the time Ms. Montgomery spoke to the police about this case gave motive for her to curry favor with the police for both issues of bail and the ultimate outcome of the pending charges. The Perjury charges give a similar motive to curry favor at trial.
6. The jury should hear of Ms. Montgomery's motive to curry favor with the police in order to better assess her credibility. Thus, while not resulting in conviction, the pending charges are admissible pursuant to NHRE 401, 402, 403 and 404(B).

WHEREFORE, Mr. Adam Montgomery, by and through his undersigned defense counsel, respectfully requests that this Honorable Court:

- A. Grant the Defendant's *Motion in Limine* to admit evidence of pending charges against Ms. Montgomery at trial; or
- B. Schedule a hearing on this matter should the Court find it necessary; and
- C. Grant such further relief as may be deemed just and proper.

Respectfully submitted,

/s/ Caroline L. Smith  
Caroline L. Smith, Esq.  
N.H. Bar #5992  
Paige Buckley, Esq.  
NH Bar #272328  
N.H. Public Defender  
408 Union Avenue  
Laconia, NH 03246  
(603) 524-1831

**CERTIFICATE OF SERVICE:**

I hereby certify that a copy of this MOTION TO ADMIT IMPEACHMENT EVIDENCE has been forwarded to the Office of the Attorney General on this 12<sup>th</sup> day of October 2022.

/s/ Caroline L. Smith  
Caroline L. Smith, Esq.